

REMARKS

Claims 1-14 are pending in this application. Claims 2-9, 11 and 12 are withdrawn from consideration. Claims 1 and 10 are independent. In light of the remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1, 10, 13, and 14 under 35 U.S.C. §103(a) as being unpatentable over *Sasaki et al.* (USP 5,034,804) in view of *Takagi* (USP 5,319,416). Applicant respectfully traverses this rejection.

Claim Rejections

In support of the Examiner's rejection of claim 1, the Examiner asserts that *Sasaki et al.* teaches all of the elements of claim 1, including a photometry device 19 for performing photometry to output photometry values (col. 4, lines 26-34, and col. 6, lines 19-44); and an exposure control device for controlling an amount of exposure in the imaging device on the basis of the photometry values outputted by the photometry device, citing to col. 4, lines 26-34 and lines 38-57.

The Examiner admits that *Sasaki et al* fails to teach or suggest a photometry device for performing photometry for each of the sections obtained by dividing an imaging area into a plurality of sections to output photometry values. The Examiner relies on the teachings of *Takagi* to cure the deficiencies of the teachings of *Sasaki et al.* citing to Figure 2, elements 11a through 11h and F1 to F8. The Examiner concludes that one skilled in the art would be motivated to combine the teachings of *Takagi* with the teachings of *Sasaki et al.* in order to provide an exposure calculation device for cameras that is capable of calculating a correct exposure for a principled object in a back-lit or front-lit condition. Applicant respectfully disagrees that the combination of the teachings of these references renders the pending claims obvious.

The invention of claim 1 recites a digital camera comprising an image file create device for creating an image file for each imaging by the imaging device, the image file create device

recording in the image file the image data outputted from said imaging device and data representing the photometry values for each of the sections outputted from said photometry device including the identification numbers for which specify each of the sections.

The disclosure of *Takagi* is directed to an exposure calculation device for a camera. An exposure calculation device for cameras is equipped with: a divisional photometry device having a plurality of photometer elements for performing photometry respectively on each of a plurality of divisional areas constituting a field; a photoelectric transfer element array for performing photometry on at least a part of the field; an edge detection device, which determines a boundary section defining on the photoelectric transfer element array a higher-photometry-output region and a lower-photometry-output region and which outputs edge information on this boundary section; a selection device, which selects at least one of the photometer elements of the divisional photometry device on the basis of the edge information, exposure calculation being enabled by the photometry output of the photometer element thus selected; and an exposure calculation device, which calculates a correct exposure for a principal object in the field on the basis of the photometry output of the selected photometer element. (Abstract)

Based on the teachings of *Takagi*, the only output of the exposure calculation device for the camera is the calculation of the correct exposure. There is no teaching or suggestion in *Takagi* that is directed to storing data representing the photometry values for each of the sections outputted from said photometry device.

The Examiner asserts that *Sasaki et al.* teaches “an image file create device for creating an image file for each of imaging by said imaging device, containing the image data output from said imaging device and data representing the photometry values, the image file create device creating the image file; and a recording control device for recording the image file created by said image file create device on a recording medium (e.g. figures 9e and 10, col. 8 lines 42-55, col. 9 lines 1-35 teach a file being created on a memory card 15 representing image data and exposure values).” (Official Action, page 3, lines 1-6).

Sasaki et al. discloses at col. 8, lines 32-54 as follows:

In order to clarify the explanation, assume that approx. 40 Kbytes are necessary to store one frame data, for example. Then, the entry block number or 11H and the number of available blocks of 04H are written into the directory area, for example. 12H, 13H, 2AH and FFH are written into addresses 11H, 12H, 13H and 2AH. Image data of one frame is written into a 40-Kbyte area obtained by linking block numbers 11H, 12H, 13H and 2AH of the data area. FFH written into the address of 2AH of the FAT area indicates the last block. FIG. 9E shows the 40-Kbyte memory area obtained by linking the blocks. In the first block or 256-byte block of block number 11H, data indicating the presence or absence of the flash (or information as to whether the flash has been used or not), white balance data, and photographing condition data including the exposure value (or aperture value) and shutter speed are recorded, and the remaining 252-byte area is used as a user area for recording the title, for example. Image data may be successively recorded in an area from 257 th byte to block number 2AH. 64 blocks, 32 blocks, 16 blocks and 8 blocks are used respectively in modes (A), (B), (C) and (D).

However, in this citation, *Sasaki et al.* merely discloses storing the exposure value (or aperture value). As *Takagi* merely discloses outputting an exposure value, the combination of the teachings of *Takagi* with the teachings of *Sasaki et al.* would merely teach storing the exposure value. As such, the combination of the teachings of the cited references fail to teach or suggest “an image file create device for creating an image file for each imaging by the imaging device, the image file create device **recording in the image file the image data outputted from said imaging device and data representing the photometry values for each of the sections outputted from said photometry device including the identification numbers for which specify each of the sections,**” as required by claim 1.

In addition, it is well know that where the suggested combination of references would require a substantial reconstruction and redesign of the elements shown in the primary reference, as well as a change in the basic principle under which the primary reference construction was designed to operate, then the combination would be improper. See *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

The Examiner seeks to replace the exposure sensor of *Sasaki et al.* with the photometry sensor and photometry circuit of *Takagi*. In order to do so, the camera of *Sasaki et al.* would

need to be substantially reconstructed to include all of the elements of microcomputer 23, and colorimetry circuit 14 (as the exposure is controlled using both data from the photometry circuit and the colorimetry circuit). As the inclusion of these components would require substantial reconstruction of the *Sasaki et al.* camera, the Examiner's combination of references is improper.

For all of these reasons, it is respectfully submitted that claim 1 is not obvious over the references as cited. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claim 13 is allowable for the reasons set forth above with regard to claim 1 as least based on its dependency on claim 1. It is further respectfully submitted that claim 10 includes elements similar to those set forth above with regard to claim 1 and thus claim 10 is allowable for the reasons set forth above with regard to claim 1.

Conclusion

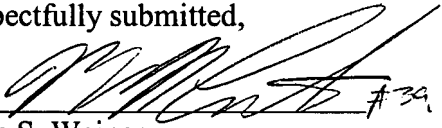
In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By  #39,491
for Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant